

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

DONALD C. HUTCHINS,	)	Civil Action 04-30126-MAP
	)	
Plaintiff,	)	Judge Michael A. Ponsor
	)	
v.	)	
	)	
CARDIAC SCIENCE, INC., et al.,	)	
	)	
Defendants.	)	

**MOTION REQUESTING THIS COURT TO TAKE JUDICIAL NOTICE  
OF JUDGMENT ENTRIES OF STATE OF OHIO,  
CUYAHOGA COUNTY COURT OF COMMON PLEAS**

Defendant, Compliant Corporation (“Compliant”), hereby requests that this Court take Judicial Notice of the September 29, 2005 and July 19, 2006 Judgment Entries of the Cuyahoga County, Ohio, Court of Common Pleas, certified copies of which are attached hereto as Exhibits A and B, respectively. The September 29, 2005 Entry orders:

that final judgment be entered for Plaintiff, Compliant Corporation, and against Defendants, Donald C. Hutchins and CPR Prompt Corporation, jointly and severally, in the amount of \$178,384.00 in compensatory damages and \$100,000 in punitive damages and declaring that the 7.5% payment provisions of Section 3.10 of the License Agreement was not triggered by virtue of the Asset Purchase Agreement among Cardiac Science, Inc., CPR L.P., and Compliant Corporation.

See Exhibit A. The July 19, 2006 Journal Entry, ordered an additional damages award of \$95,662.82 to Compliant for the attorneys fees ordered in the September 29, 2005 Entry. See Exhibit B.

On October 5, 2005, this Court took judicial notice of the Cuyahoga County, Ohio, Court of Common Pleas Journal Entry of August 24, 2005 that granted summary judgment to Compliant and against Donald Hutchins on substantially the same issues as are before the Court in this matter. See Defendant Compliant Corporation's Motion for Summary Judgment, at 14-16 (discussing the res judicata effects of the Ohio litigation on this matter). The September 29, 2005 and July 19, 2006 Ohio Journal Entries are the damages awards resulting from the August 24, 2005 entry of summary judgment to Compliant. See Exhibits A & B. "It is well-accepted that federal courts may take judicial notice of proceedings in other courts if those proceedings have relevance to the matters at hand." See Kowalski v. Gagne, 914 F.2d 299, 305 (1st Cir. 1990); St. Louis Baptist Temple, Inc. v. FDIC, 605 F.2d 1169, 1172 (10th Cir. 1979) ("Federal courts, in appropriate circumstances, may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue."). Accordingly, because the issues in the Ohio case are identical to the issues in this case, this Court should be aware of the Ohio court's decision.

Respectfully submitted,

/s/ Colleen M. O'Neil  
 WILLIAM E. COUGHLIN (OH # 0010874)  
 wcoughlin@calfee.com  
 COLLEEN M. O' NEIL (OH # 0066576)  
 coneil@calfee.com  
 JEFFREY J. LAUDERDALE (OH # 0074859)  
 jlauderdale@calfee.com  
 CALFEE, HALTER & GRISWOLD LLP

800 Superior Avenue, Suite 1400  
Cleveland, Ohio, 44114  
(216)622-8200 (Telephone)  
(216)241-0816 (Facsimile)

JOHN J. EGAN (151680)  
EGAN, FLANAGAN & COHEN, P.C.  
PO Box 9035  
67 Market Street  
Springfield, MA 01102-9035  
(413) 737-0260 (Telephone)  
FAX (413) 737-0121

Attorneys for Defendant and Counterclaimant  
Compliant Corporation

**CERTIFICATE OF SERVICE**

I certify that, on August 31, 2006 I electronically filed a copy of the foregoing Motion Requesting this Court to Take Judicial Notice of the Judgment Entries of the State of Ohio, Cuyahoga County Court of Common Pleas and that parties to the case, registered with the Court's electronic filing system, will receive electronic notice of such filing. A copy of the foregoing was also served upon the following via first-class U.S. mail on today's date:

Donald C. Hutchins  
1047 Longmeadow Street  
Longmeadow, Massachusetts 01106  
Pro Se

/s/ Colleen M. O'Neil  
One of the Attorneys for Defendant,  
Compliant Corporation